IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF SEPTEMBER

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 16932 of 2004

Between:

K.G.B.Ramakrishna Goud, S/o K.G.Balanna Goud, Allagadda, APCPDCL (Andhra Pradesh Central Power Distribution Company Ltd.) Kurnool District

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PETITIONER

AND

1. The Chairman and Managing Director, APCPDCL, Singareni Bhavan, Red Hills, Hyderabad
2 The Director, HRD APCPDCL, Singareni Bhavan, Red Hills, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the 1st respondent in not considering case of the petitioner for promotion to the category of Divisional Engineer on the ground that the disciplinary proceedings are pending against the petitioner from 1996 onwards and promoted his juniors as Divisional Engineers by ignoring the petitioner's case is highly illegal, arbitrary and violation of Articles 14, 16 and 21 of the Constitution of India and consequently declare that the petitioner is entitled for promotion to the next higher category i.e., Divisional Engineer without reference to pendency of the disciplinary proceedings in terms of the judgment rendered by the Hon'ble Supreme Court and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case

Counsel for the Petitioner: MR.K.SATYANARYANA MURTHY

Counsel for the Respondent Nos 1 and 2: MR.S.RAVINDRANATH

The Court at the admission stage made the following :

THE HONOURABLE DR. JUSTICE G. YETHIRAJULU

WRIT PETITION No. 16932 of 2003

ORDER:

The petitioner is working as an Assistant Divisional Engineer in the 1st respondent-company. While he was working in the 1st respondent-company, the A.C.B. authorities conducted a raid of his house on 04.04.1996 and the house of his relations on the same day, on the allegation of disproportionate assets. After 25 months of the search, the petitioner was directed by the A.C.B. authorities to submit his explanation against the notice. In the said notice, the A.C.B. mentioned that the petitioner is possessing disproportionate assets of value of Rs.7,90,899/- to the known sources of income. The A.C.B. authorities laid a charge sheet in the year 1999. The petitioner was kept under suspension before filing the charge sheet. Later, he was re-instated into service on 30.10.2002.

The petitioner contends that due to long lapse of time in the criminal proceedings, he is entitled to be considered for promotion to the next higher category, and he cannot be deprived of his rightful claim for promotion, on the mere ground of pendency of the criminal case against him. He, therefore, approached this Court seeking to declare that the action of the 1st respondent in not considering his case for promotion to the category of the Divisional Engineer, on the ground of the pendency of disciplinary proceedings as illegal, arbitrary and violative of the Articles 14, 16 and 21 of the Constitution of the India. The petitioner contends that the Government of Andhra Pradesh issued G.O.Ms.No.257 dated 10.08.1999, in respect of the employees, who are facing disciplinary cases regarding their promotion to higher categories, and in pursuance of that, he is entitled to be considered, despite the

pendency of the case against him under the Prevention of Corruption Act. The petitioner contends that he made a representation on 18.08.2004 to the 1st respondent requesting for promotion as Divisional Engineer and the first respondent so far did not pass any orders on his representation regarding his request for promotion during the pendency of the criminal case against him under the Prevention of Corruption Act.

In the light of the circumstances narrated by the petitioner, the first respondent is directed to consider whether the G.O.Ms.No. 257 dated 10.08.1999 is applicable to the petitioner, who is facing the criminal trial under the Prevention of Corruption Act, for disproportionate assets, and pass appropriate orders on the representation of the petitioner dated 18.08.2004, regarding his request for promotion as a Divisional Engineer, within two months from the date of the receipt of a copy of this order.

Accordingly, the Writ Petition is disposed of. No costs.

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Dr.G.YETHIRAJULU, J.

Dt. 21st September, 2004

Note

Issue C.C. tomorrow

(By Order)

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Copies to:

1. The Chairman and Managing Director, APCPDCL, Singareni Bhavan, Red Hills, Hyderabad
2 The Director, HRD APCPDCL, Singareni Bhavan, Red Hills, Hyderabad
3. Two C.D.copies.